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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,672	12/04/2003	Biplav Srivastava	JP920030196US1	8927

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Frederick W. Gibb, III
McGinn & Gibb, PLLC
Suite 304
2568-A Riva Road
Annapolis, MD 21401

EXAMINER

TRUONG, CAMQUY

ART UNIT	PAPER NUMBER
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2195

MAIL DATE	DELIVERY MODE
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07/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/727,672	Applicant(s) SRIVASTAVA ET AL.	
	Examiner CAMQUY TRUONG	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 7-8 are presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after the final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/12/09 has been entered.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d) (1) and MPEP § 608.01(o). Correction of the following is required: the recited "*computer storage medium*" of Claim 7 and "*computer readable storage media*" of claim 8. The Specification does not mention the recited "*computer storage medium*" and "*computer readable storage media*". Thus, there is no support or antecedent basis for the recited "*computer storage medium*" and "*computer readable storage media*" that allows the meaning of the terms to be ascertained, as required in 37 CFR 1.75(d)(1).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 1, 7-8 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The claim language in the following claim is not clearly understood:

i. As to claim 1, (line 18), claim 7 (line 20) and claim 8 (line 18), it is not clearly understood whether “set of logical processes” refers to “set of parameter” and how “ set of logical processes” relates with “ set of parameter”.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al. (U.S. 6,336,138) in view of Araki et al. (U.S. 5,671,338) and further in view of Polan et al. (U.S. 2004/0068565 A1).**

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8. As to claims 1 and 7-8, Caswell teaches the invention substantially as claimed including: a method for composing network accessible services said method comprising the steps of:

storing an abstract plan (memory for storing the service model template, col. 4, lines 32-33) **that specifies a set of logical processes that identify a type of network accessible service to be used** (the template includes a specification of elements involved in providing the service, such as servers and network links ..., col. 9, lines 2-11; col. 5, lines 45-62) and an order of use of said network accessible service (specifies the types of service, col. 9, lines 8-9; col. 16, lines 34-37) **wherein each service is assigned to said abstract plan in a predetermined manner** (col. 5, lines 45-62; col. 3, lines 39-42; col. 4, lines 6-31);

determining an instantiated plan (generating a service model instance 40, col. 7, lines 36-38) **that specifies at least one particular network accessible service that can perform each one of the logical processes of the abstract plan** (col. 7, lines 60-65; col.16, lines 50-62; col. 18, lines 44-54); and

evaluating said instantiated plan of predetermined constraints relating to subsequent execution of the determined network accessible services of said instantiated plan (extract information from the service model instance to merge test information relevant to particular elements with default algorithm descriptions in order to generate a measurement agent specification for the ISP of interest, col. 17, lines 6-10; col. 8, lines 44-60; col. 15, line 55 – col. 16, line 26).

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9. Caswell does not explicitly teach evaluating said instantiated plan for violations of predetermined constraints, rejecting, using processor, an instantiated plan if the evaluated instantiated plan violates at least one of the predetermined constraints; determining, using said processor, a set of parameters concerning the instantiated plan and an approximated range of each of the composing, using said processor, an alternative abstract plan based on said evaluated instantiated plan violating at least one of the predetermined; wherein the abstract plan specifies an ordered set of logical processes.

10. However, Araki teaches:

evaluating said instantiated plan for violations of predetermined constraints (perform individual evaluation to test if the combination is consistent with the constrain, col. 7, lines 52-54 ; col. 12, lines 36-43);

rejecting, using processor, an instantiated plan if the evaluated instantiated plan violates at least one of the predetermined constraints (detecting a restriction in a constraint, if it exists, replaces the current value, which has restriction ... recreate the allocation proposal, col. 12, lines 44-56; col. 4, line 54 – col. 5, line 4. It is inherently the allocation proposal is rejected so that the new allocation proposal is recreate);

determining, using said processor, a set of parameters concerning the instantiated plan (selecting an unevaluated combination of jobs, col. 7, lines 50-52) **and an approximated range of each of the parameters** (each job is represented by a specific value, col. 7, lines 34-35);

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composing, using said processor, an alternative abstract plan based on said evaluated instantiated plan violating at least one of the predetermined constraints (replacing a first element of the ... and recreating the allocation proposal, col. 12, lines 52-56);

wherein the abstract plan specifies an ordered set of logical processes (a job included in the schedule is represented as a unique variable value, col. 4, lines 24-26), and

11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Caswell by incorporating the teaching of evaluating said instantiated plan for violations of predetermined constraints, rejecting, using processor, an instantiated plan if the evaluated instantiated plan violates at least one of the predetermined constraints; determining, using said processor, a set of parameters concerning the instantiated plan and an approximated range of each of the composing, using said processor, an alternative abstract plan based on said evaluated instantiated plan violating at least one of the predetermined; wherein the abstract plan specifies an ordered set of logical processes as taught by Araki because this would improves the speed and quality of implementing the required changes in the network configuration to support evolving business and corporate functions.

12. Caswell and Araki do not explicitly teach the abstract plan is represented in a predetermined form using a web services composition language. However, Charisius

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teaches wherein the abstract plan is represented in a predetermined form using a web services composition language (paragraph 6).

13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Caswell and Mayer by incorporating the teaching of abstract plan is represented in a predetermined form using a web services composition language as taught by Polan because this would enables fast and efficient when construct a model by using web service composition.

Response to the argument

14. Applicant's arguments filed 6/12/09 for claims 1 and 7-8 have been considered but are moot in view of the new ground(s) rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMQUY TRUONG whose telephone number is (571)272-3773. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (703)305-9678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195

Camquy Truong

June 25, 2009